

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

UNITED STATES OF AMERICA

v.

ROSS SYLVESTER ELENDU

INDICTMENT

Case No. _____

Violation: 18 U.S.C. § 1343 and 2

Background

1. The Shuttered Venue Operations Grant (SVOG) program provided emergency assistance to eligible performing arts businesses affected by the COVID-19 pandemic. The SVOG program's mission was to support the ongoing operations of eligible live venues and operators, live venue promoters, theatrical producers, talent representatives, live performing arts organization operators, museums, and motion picture theaters during the uncertain economic conditions caused by the COVID-19 pandemic.

2. The SVOG program was established by the Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act, signed into law on December 27, 2020, and amended by the American Rescue Plan Act. The program set aside \$16 billion in grants to be administered by the Small Business Association's (SBA's) Office of Disaster Assistance.

3. Entities had to meet certain criteria to be eligible for an SVOG.

- a. The entity had to be a live venue operator or promoter, or the entity had to be in another qualifying arts business under the SVOG program;
- b. The entity had to have a place of business located in the United States and primarily operate in the United States. The entity must have made a

significant contribution to the United States economy through the payment of taxes or use of American products, materials, or labor;

c. The entity must have been in operation as of February 29, 2020.

4. Eligible entities in operation on January 1, 2019, could receive a grant in the amount of 45% of the entity's 2019 gross earned revenue, or \$10 million, whichever was less. For an eligible entity that began operation after January 1, 2019, grants were in the amount of the average monthly gross earned revenue for each full month of operation during 2019 multiplied by six, up to a maximum of \$10 million.

5. Applications for an SVOG required the entity to submit certain required documents and information to support the entity's eligibility for a grant, including:

- a. A good faith certification that the grant was necessary to support the ongoing operations of the entity; and
- b. A statement of assurance that the entity was fully operational on February 29, 2020.

6. The SBA invited applicants to submit the following types of information and documents in an SVOG application to support eligibility for an SVOG:

- a. A copy of a photo ID of the business owner or authorized representative;
- b. A business license if required by a city, county, or state law;
- c. 2019 Tax Return, including all schedules;
- d. Business website address, or a link to the applicant's page on a social media platform;
- e. Supporting documents demonstrating social media presence;

- f. Business formation documents;
 - g. Personnel documents showing personnel working for the entity;
 - h. Signed financial statements demonstrating all sources of revenue and expenditures;
 - i. Signed financial audits completed by a third party.
7. The SBA further identified documentation that a talent representative could provide to verify that the representative met SVOG eligibility requirements:
- a. A list of performing artists they booked or managed in 2019 that includes the venues for which they were contracted to perform, the city and state of the venues, and performance dates;
 - b. A current roster of performing artists which they book or manage that primarily work in live venues or festivals. This roster must also either appear on the applicant's website or be published in print or online in an industry-recognized trade publication registry;
 - c. Fully executed contractual service agreements between the talent representative and two artists or signed statements from two artists certifying the applicant represented them for live performances in 2019 and 2020; and
 - d. Fully executed contracts for live performances that took place in a venue or at a festival in 2019 and 2020 for two artists the applicant managed or booked.

8. The SBA defined a talent representative as an agent or manager for whom no less than 70% of their business operations involves the representation or management of two or more artists or entertainers. These operations must involve booking or representing musicians, comedians, actors, or similar performing artists primarily at live events staged in venues or at festivals in exchange for compensation founded on the number of tickets sold or a similar basis.

9. On or about April 26, 2021, ROSS SYLVESTER ELENDU applied for an SVOG for Colossal Empire Promotions LLC (“Colossal”) in the amount of \$1,374,200.00 based on claimed 2019 revenue in the amount of \$3,100,000.00. The application required ROSS SYLVESTER ELENDU to certify under penalty of perjury under the laws of the United States that the information submitted was true and correct.

10. Colossal had been originally registered in the State of Minnesota on May 1, 2014, and it was also registered with the North Dakota Secretary of State on August 3, 2023.

11. ROSS SYLVESTER ELENDU submitted quarterly “Income Statements” for 2019. In the first two quarters of 2019, Colossal recorded net losses of \$31,244 and \$32,824, respectively. Then in Q3, Colossal showed net income of \$400,622, and net income of \$2,448,774 in Q4.

12. ROSS SYLVESTER ELENDU filed his United States Individual Income Tax Return for 2019 on April 8, 2020. The tax return listed his occupation as an oilfield worker, and it did not include any attachment for Schedule C: Profit or Loss From Business.

13. On March 11, 2021, ROSS SYLVESTER ELENDU filed an Amended U.S. Individual Income Tax Return, which added \$216,325 income from Schedule C for Colossal. Schedule C showed receipts of \$3,100,000 and expenses of \$2,640,000, which included \$2,531,000 in “artists fees” and \$109,000 for “interns.”

14. In further support of the SVOG application, ROSS SYLVESTER ELENDU submitted a non-exclusive agreement between Colossal and Rolland Elendu, ROSS SYLVESTER ELENDU’s brother, who performed hip hop as Roddy Banks. Rolland Elendu told investigators that he managed himself and that neither ROSS SYLVESTER ELENDU or Colossal had ever booked Rolland Elendu.

15. In further support of the SVOG application, ROSS SYLVESTER ELENDU submitted an exclusive agreement between Colossal and Roy Elendu, who performed as DJ Rash. Roy Elendu is a brother of both Rolland Elendu and ROSS SYLVESTER ELENDU.

16. In further support of the SVOG application, ROSS SYLVESTER ELENDU submitted a contract between Mark Ukejellam and Colossal, purportedly executed on September 18, 2019. The contract required Mark Ukejellam, a promoter, to pay \$3,100,000 to Colossal, which was serving as an agent for an artist only identified as “Murphy” in the contract. In responses to a subpoena, ROSS SYLVESTER ELENDU stated through counsel that Colossal had not received \$3.1 million of revenue because it was in “accounts receivable.” An invoice from Colossal to Mark Ukejellam shows Mark Ukejellam’s billing address is in Lome, Togo.

17. On October 28, 2021, an SVOG disbursement to Colossal was approved in the amount of \$1,374,200.00. An electronic funds transfer was initiated to an account number XXXX832 at Gate City Bank. Gate City Bank flagged the deposit and notified the SBA, which requested that the funds be returned.

18. Colossal opened bank account XXXX832 on June 22, 2020, and it was closed on February 14, 2022. In response to a subpoena to Colossal, Colossal stated that it “only has one business bank account and it is with Gate City Bank.”

19. The only deposits in the Gate City Bank account, other than \$143, came from two PPP loans and the SVOG.

20. In a letter to the SBA with respect to the SVOG, ROSS SYLVESTER ELEN DU stated “My business was thriving until I was unexpectedly hit with the COVID 19 pandemic which greatly impacted my business due to no fault of my own.”

21. After the SVOG disbursement was stopped and returned, ROSS SYLVESTER ELEN DU hired an attorney to attempt to obtain payment. After the attorney was advised that ROSS SYLVESTER ELEN DU was being investigated for a violation of federal law, ROSS SYLVESTER ELEN DU persisted with his efforts to obtain payment.

COUNT ONE

Wire Fraud

22. Between on or about December 27, 2020, and on or about December 31, 2021, in the District of North Dakota and elsewhere,

ROSS SYLVESTER ELENDU,

individually, and by aiding and abetting, counseling, commanding, inducing and procuring its commission, with intent to defraud, did voluntarily and intentionally devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing the pretenses, representations, and promises were false and fraudulent when made, and did transmit and cause to be transmitted, by means of wire communications in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice;

23. The Scheme. The United States realleges and incorporates by reference the allegations listed in the background section of this Indictment, which outline ROSS SYLVESTER ELENDU's scheme to defraud the SBA, to wit: ROSS SYLVESTER ELENDU falsely represented to the SBA, in an application for an SVOG, that Colossal earned \$3.1 million of gross revenue in 2019 when in fact it earned no revenue, and further, ROSS SYLVESTER ELENDU electronically filed a false tax return with the SBA in interstate commerce to support the fraudulent SVOG application. It was a further part of the scheme that ROSS SYLVESTER ELENDU filed a false and fraudulent amended tax return with the Internal Revenue Service for the purpose of executing the

scheme and artifice to defraud the SBA. ROSS SYLVESTER ELENDU had no legal right to the SVOG funds disbursed to his Gate City Bank account, and ROSS SYLVESTER ELENDU persisted with efforts to obtain the SVOG even after being notified that he was being criminally investigated for fraud in connection with the SVOG application.

In violation of Title 18, United States Code, Sections 1343 and 2.

A TRUE BILL:

/s/ Foreperson

Foreperson

/s/ Mac Schneider

MAC SCHNEIDER

United States Attorney

MDG/ak